

1 **Fuel Hazard Reduction Emergency Rule**

2
3 **Final Rule Language Effective Date February 25, 2005**

4
5 **Amend 14 CCR § 895.1:**

6
7 **Mainline road:** Roads on non federal lands that are used as the
8 primary route for the transportation of forest products that are fed
9 by arterial (secondary) haul roads.

10
11 **Average Severe Fire Weather Conditions:** Atmospheric and fuel
12 conditions where fuel moisture content (dry weight basis) of 1-hour
13 timelag fuels is three percent, 10-hour fuels is four percent and 100-
14 hour fuels is five percent, and live surface fuels is 70 percent. Mid-
15 flame wind speed is seven miles per hour or greater, when measured in
16 a closed forest canopy (40 percent canopy cover or greater).

17 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5,
18 4561.6, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code.
19 Reference: Sections 4512, 4513, 4526, 4551, 4551.5, 4561, 4561.6,
20 4562, 4562.5, 4562.7, 4583.2, 4591.1, 21001(f), 21080.5, 21083.2 and
21 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed
following Section 15387 of Title 14 Cal. Code of Regulations), and
Laupheimer v. State (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

22 **Amend 14 CCR § 1052 Emergency Notice**

23 (a) Before cutting or removing timber on an emergency basis, an
24 RPF on behalf of a timber owner or operator shall submit a Notice of
25 Emergency Timber Operations to the Director, on form RM-67 (9/99), or

1 form RM-65 (1052.4)(2/24/05) for a Fuel Hazard Reduction emergency, as
2 prescribed by the Director. The notice shall include, but not be
3 limited to, the following:

4 (1) Names and addresses of all timberland owner(s), timber
5 owner(s), and timber operator(s) for the area on which timber will be
6 cut or removed.

7 (2) A description of the specific conditions that
8 constitute the emergency, its cause, extent and reason for immediate
9 commencement of timber operations.

10 (3) Legal description of the area from which timber will be
11 cut or removed.

12 (4) A titled USGS (if available) or equivalent topographic
13 map(s) of scale not less than 2" to the mile, or larger scale, showing
14 the area from which timber will be cut or removed, the legal
15 description, roads and Class I, II, III and IV watercourses, and
16 yarding systems if more than one will be used.

17 (5) Yarding system to be used.

18 (6) The expected dates of commencement and completion of
19 timber operations.

20 (7) A declaration by the RPF, made under penalty of
21 perjury, that a bona fide emergency exists which requires emergency
22 timber operations.

23 (8) A declaration by the timber owner, made under penalty
24 of perjury, that any applicable timber yield taxes will be paid
25 pursuant to Section 38115 of the Revenue and Taxation Code.

(9) Name, address, license number, and signature of the RPF
who prepares the notice and submits it to the Director on behalf of
the timber owner or operator.

(10) For Emergency Notices covering three acres or more in
size, the RPF shall include a Confidential Archaeological Letter with
the Emergency Notice submitted to the Director. The Confidential
Archaeological Letter shall include all information required by 14 CCR
§929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including
site records, if required pursuant to 14 CCR §929.1 [949.1, 969.1](g)
and 929.5. The Director shall also submit a complete copy of the
Confidential Archaeological Letter and two copies of any required
archaeological or historical site records, to the appropriate
Information Center of the California Historical Resource Information
System within 30 days from the date of Emergency Notice submittal to
the Director. Prior to submitting the emergency notice to the Director
the RPF shall send a copy of the emergency notice to Native Americans
as defined in 14 CCR §895.1.

(A) For projects filing an emergency notice for fuel
hazard reduction under 14 CCR § 1052.4, archaeology requirements shall

1 be conducted by a person possessing current certification pursuant to
2 14 CCR § 929.4[949.4,969.4].

3 b) Timber operations pursuant to an emergency notice shall comply
4 with the rules and regulations of the Board. A person conducting
5 timber operations under an Emergency Notice shall comply with all
6 operational provisions of the Forest Practice Act and District Forest
7 Practice Rules applicable to "Timber Harvest Plan", "THP", and "plan".

8 (c) In-lieu practices for watercourse and lake protection zones
9 as specified under Article 6 of the rules, exceptions to rules, and
10 alternative practices are not allowed unless necessary to protect
11 public health and safety.

12 (d) Timber operations pursuant to an Emergency Notice may not
13 commence for five working days, 15 days for a fuel hazard emergency
14 per 14 CCR §§ 1052.1(e) and 1052.4, from the date of the Director's
15 receipt of the Emergency Notice unless such waiting period is waived
16 by the Director. The Director shall determine whether the emergency
17 notice is complete. If it is found to be complete the Director shall
18 send a copy of a notice of acceptance to the timberland owner. If the
19 Emergency Notice is not complete it shall be returned to the
20 submitter. If the Director does not act within five working days, 15
21 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4,
22 of receipt of the Emergency Notice, timber operations may commence.

23 (e) Timber operations shall not continue beyond 120 days after
24 the Emergency Notice is accepted by the Director unless a plan is
25 submitted to the Director and found to be in conformance with the
26 rules and regulations of the Board, except for burning operations to
27 treat fuels in accordance with § 1052.4(d)(6) which shall be completed
28 by April 1 of the year following fuel creation.

29 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
30 Reference: Section 4592, Public Resources Code.

1 **Amend 14 CCR 1052.1 Emergency Conditions**

2 The following are conditions that constitute an emergency
pursuant to 14 CCR 895.1:

3 (a) Trees that are dead or dying as a result of insects, disease,
parasites, or animal damage.

4 (b) Trees that are fallen, damaged, dead or dying as a result of
wind, snow, freezing weather, fire, flood, landslide or earthquake.

5 (c) Trees that are dead or dying as a result of air or water
pollution.

6 (d) Cutting or removing trees required for emergency construction
or repair of roads.

7 (e) Where high, very high or extreme fuel hazard conditions, the
8 combination combustible fuel quantity, type, condition, configuration
9 and terrain positioning, pose a significant fire threat on private
10 timberlands. Cutting and removal of hazardous fuels, including trees,
11 shrubs and other woody material, is needed to eliminate the vertical
12 and horizontal continuity of understory fuels and surface fuels, for
13 the purpose of reducing the rate of fire spread, fire duration and
14 intensity, fuel ignitability and to achieve a flame length under
15 average severe fire weather conditions that is less than 4 feet in the
16 treated areas.

17 The following are conditions that constitute a financial
emergency as defined in 14 CCR 895.1:

18 Potential financial loss of timber previously inoperable or
19 unmerchantable due to one or more of the following factors: access,
location, condition, or timber volume that has unexpectedly become
20 feasible to harvest provided that the harvest opportunity will not be
economically feasible for more than 120 days and provided that such
operations meet the conditions specified in 1038(b)(1)-(10) and meet
21 minimum stocking requirements at the completion of timber operations.

22 Note: Authority cited: Sections 4551, 4552, Public Resources Code.
Reference: Section 4592, Public Resources Code.

23
24 **Adopt 14 CCR 1052.4 Emergency Notice for Fuel Hazard Reduction**

25 The RPF preparing the Notice of Emergency Timber Operations for

1 Fuel Hazard Reduction shall describe the nature of the emergency and
2 the need for immediate cutting in sufficient detail so that the reason
3 for the emergency is clear. Emergency timber operations, under the
4 presumed emergency standard of 14 CCR § 1052.1, may be commenced and
5 conducted when in conformance with the following:

6 (a) RPF develops and documents the vegetative treatments
7 necessary to meet the goals of 14 CCR § 1052.1(e), and ensures post
8 harvest conditions are in accordance with all subsections in § 1052.4.

9 Such documentation includes the following:

10 (1) A description of the preharvest stand structure and
11 statement of the postharvest stand stocking levels.

12 (2) A description of the criteria used for the trees to be
13 harvested or the trees to be retained.

14 (3) All trees that are harvested or all trees that are
15 retained shall be marked by or under the supervision of a registered
16 professional forester before felling operations begin.

17 (4) Post harvest compliance shall be determined by the
18 combination of physical measurements, observations, and comparison to
19 photo series examples in U.S. Forest Service General Technical Report
20 PNW-51 and 52 description codes 1-PP-4-PC, 1-DF-4-PC, 6-DF-PC and 2-
21 LP-3-PC , or other examples on file in the official rulemaking file
22 and incorporated by reference. Post harvest compliance shall be met on
23 at least 80 percent of the project area as calculated excluding WLPZs
24 and other wildlife protection requirements developed in accordance
25 with § 1052.4 (e).

1 (b) The conditions of subsection 14 CCR § 1038 (b)(1) through
2 (10) are applied or, for operations in the Lake Tahoe Basin, (f)(1)
3 through (14) are applied.

4 (c) Geographic area: operations are permitted:

5 (1) Within ¼ mile from approved and legally permitted
6 structures that comply with the California Building Code (legal
7 structure). Such legal structures shall be within or adjacent to a
8 community listed in the "California Fire Alliance list of Communities
9 at Risk" (copyright date 2003 on file in the official rulemaking file
10 and incorporated by reference) and have densities greater than 1
11 structure per 20 acres.

12 (2) Within 500 feet of a legal structures outside the area
13 defined in § 1052.4(c)(1);

14 (3) Within 500 feet of either side of a public or federal
15 road;

16 (4) Within 500 feet on either side of a private road
17 providing access to legal structures;

18 (5) Within 500 feet on either side of a mainline haul road
19 identified by a public fire agency as necessary for fire suppression
20 or evacuation and is approved by a public fire agency in a fire
21 prevention plan;

22 (6) Within 500 feet on either side of ridges identified by a
23 public fire agency as suitable for fire suppression and is approved by
24 a public fire agency in a fire prevention plan;

25 (7) Within 500 feet of infrastructure facilities such as

1 transmission lines or towers or water conduits.

2 (d) Vegetation Treatments: Tree removal shall target understory
3 trees. The residual stand shall consist primarily of healthy and
4 vigorous dominant and codominant trees from the preharvest stand.
5 Standards listed shall be met by retaining the largest diameter trees
6 in the preharvest project area.

7 (1) The quadratic mean diameter of trees greater than 8
8 inches diameter breast height in the preharvest project area shall be
9 increased in the post harvest stand.

10 (2) Only trees less than 30 inches inside bark stump
11 diameter may be removed.

12 (3) Minimum post treatment canopy closure of dominant and
13 codominant trees shall be 40 percent for east side pine forest types;
14 50 percent for coastal redwood and Douglas-fir forest types in or
15 adjacent to communities and legal structures referenced in subsection
16 § 1052.4(c)(1) and (2); 60 percent for coastal redwood and Douglas-fir
17 forest types outside of communities and legal structures referenced in
18 subsection § 1052.4(c)(1) and (2); and 50 percent for mixed conifer
19 and all other forest types.

20 (4) Stocking shall meet commercial thinning requirement of
21 14 CCR § 913.3 [933.3, 953.3] immediately upon completion of
22 operations.

23 (5) Understory and surface fuels shall be removed to
24 achieve a minimum clearance distance of 8 feet measured from the base
25 of the live crown of the post harvest dominant and codominant trees to

1 the top of the surface fuels.

2 (6) Notwithstanding wildlife habitat requirements of
3 § 1052.4(e), surface fuels in the project area, including logging
4 slash and debris, low brush, and deadwood, that could promote the
5 spread of wildfire shall be treated to achieve the goal of an average
6 of 4 foot maximum flame length height under average severe fire
7 weather conditions. These treatments shall include chipping, removal
8 or other methods necessary to achieve the goal, and shall be
9 accomplished within 120 days from the start of operations, except for
10 burning operations, which shall be accomplished by April 1 of the year
11 following surface fuel creation.

12 (e) As part of the preharvest project design, the RPF shall
13 evaluate and incorporate habitat requirements for fish, wildlife and
14 plant species in accordance with 14 CCR §§ 898.2, 916.9 [936.9,956.9]
15 and 919. Such evaluations shall include use of the California Natural
16 Diversity Database (as referenced by the California Department of Fish
17 and Game, <http://www.dfg.ca.gov/whdab/html/cnddb.html>) and local
18 knowledge of the planning watershed. Consultation with California
19 Department of Fish and Game personnel is recommended. Examples of
20 habitat requirements to be incorporated into the project include
21 retention of large woody debris and snags congruent with emergency
22 condition goals, and vegetative screening for wildlife cover and
23 visual aesthetics.

24 Note: Authority cited: Sections 4551, 4551.5, 4552, 4553, 4592 Public
25 Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562,
4584, 4592, 21001(f), 21080(b)(4) Public Resources Code.